

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 205 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MISTRY ATMARAM JOITARAM

Versus

MEHESKUMAR NATHALAL MISTRY

Appearance:

MS BINODA GAJJAR for Petitioner

MR UNWALA for MR PK JANI for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 08/12/98

ORAL JUDGEMENT

This revision application by the landlord of the premises, since deceased now represented by his heirs and legal representatives, is directed against the order of the Joint District Judge, Mahesana in Civil Revision Application No.1/88 under which the standard rent of the disputed premises has been fixed at Rs.200/- per year.

Learned trial court has fixed the standard rent

of the premises at the rate of Rs.50/- per month. There are two set of evidence produced in the matter from the side of the parties. Learned trial court relying on documents - rent note and municipal assessment record fixed the standard rent of the premises at Rs.50/-p.m.. The document - rent note is an admitted document. When the parties have agreed the rent of the premises to be Rs.50/-p.m. way back on 25-10-1978, the date on which this premises was let out after the year 1947, the revisional court should not have interfered with the findings of the trial Court. It is true that there is a document Ex.21 on the record, but the landlord has furnished a reasonable explanation that by mistake the date 1-1-1979 has been mentioned instead of 1-1-1981. Be that as it may. Otherwise also, the rent of Rs.200/- per year seems to be towards the lower side.

Taking into consideration the totality of the facts of this case, learned first appellate court has committed serious illegality in interfering with the findings of the trial court which are based on admitted document i.e. rent note.

In the result, this civil revision application succeeds and the same is allowed and the order of Joint District Judge, Mahesana dated 24th July, 1989 is quashed and set aside. Rule made absolute.

Normally the cost has to be awarded in the litigation of a sum which has been spent by the litigant in the litigation. Learned counsel for the petitioner has given out that this matter is of her relative and she has charged very reasonable fees i.e. Rs.2500/-. Though it may be a reasonable fee as assessed by the counsel for the petitioner taking into consideration the relationship, I consider it to be not a reasonable fee but highly excessive fee in the matter which pertains to the fixation of standard rent where the trial court has fixed the same at Rs.50/- p.m. and learned first appellate court at Rs.200/- per year. Be that as it may. That much amount of costs cannot be allowed to be granted but the respondent is directed to pay Rs.1000/- as costs of this litigation to the petitioner.
